

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JARROD HURLEY,

Plaintiff,

v.

7:08-CV-743

FAMILY RESTAURANTS OF WATERTOWN, INC.,
and DYNAMIC ENTERPRISES,

Defendants.

THOMAS J. McAVOY
United States District Judge

DECISION and ORDER

Plaintiff's motion for default judgement pursuant to Fed. R. Civ. P. 55(b)(2) was granted on the issue of liability in a decision by the Court dated January 21, 2009. Pursuant to the Court's direction, Plaintiff was directed to file with the Court, and serve on Defendants, affidavits and/or other evidence, admissible in form, substantiating his claim for damages. Defendants were then afforded an opportunity to file with the Court, and serve on Plaintiff, affidavits and/or other evidence, admissible in form, contesting or otherwise addressing Plaintiff's claim for damages. Defendants were also permitted to request an evidentiary hearing.

Plaintiff has submitted evidence supporting damages in the amount of \$35,290.00. Defendants have failed to file with the court evidence contesting or otherwise addressing Plaintiff's claim for damages or requesting an evidentiary hearing. Under Rule 55(b) "it [is] not necessary for the District Court to hold a hearing, as long as it ensured that there was a basis for the damages specified in the default judgment." *Fustok v. Conticommodity*

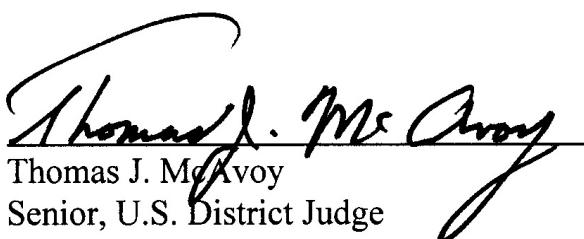
Services, Inc., 873 F.2d 38, 40 (2d Cir. 1989). The Court finds that Plaintiff's submissions form a proper basis for the requested damages.

It is, therefore, ORDERED that:

Judgement shall be entered against Defendants Family Restaurants of Watertown, Inc. and Dynamic Enterprises and in favor of Plaintiff in the amount of \$35,290.00.

IT IS SO ORDERED.

Dated:July 1, 2009



Thomas J. McAvoy
Senior, U.S. District Judge